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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,218	07/30/2001	Edward R. diGirolamo	P4782-014	2150

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EXAMINER
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WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/918,218

Applicant(s)

DIGIROLAMO ET AL.

Examiner

Alfred J Wujciak III

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 7/30/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☒ Claim(s) 3-10, 17-18, 20-23, 26-33, 39-40, 42-43 and 46-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

This is the first Office Action for the serial number 09/918,218, Modular I-beam, filed on 7/30/01.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 11, 19, 24-25, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 5,544,459 to Konger.

Konger teaches a modular I-beam (13, figure 3) comprising a first set of nested channels (18) and a second set of nested channels (the opposition side of the first set of nested channels) disposed in back-to-back relation with the first set of nested channel. The I-beam comprises one or more fasteners (37,41) securing the first and second sets of nested channels together. The first and second sets of nested channels comprise at least one channel pair (the edge of element 18 being bent inwardly toward inside of channel). The modular I-beam comprises a central beam disposed between the first and second sets of channels (figure 3). The modular I-beam comprises at least one plate (17).

#### ***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12,38, 44-45,47, 51, 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konger.

Konger teaches the fastener comprises nails (37, 41) but fails to teach the nails are passed through the channels into the central beam. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added nails on both sides of channels to provide an additional security to retain the channels on the beam.

Konger teaches the elements above but fails to teach the use of elements as a method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used the elements as a method to provide a convenience for connecting to the beam.

Claims 13-16, 34-37, 52-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konger in view of US Patent # 3,328,931 to Smith.

Konger teaches the first and second set of channels and fastener but fails to teach the first and second set of channels include one or more aligned opening to receive the fasteners and fastener comprising a threaded fastener. Smith teaches the channel comprising one or more aligned opening (30, figure 1) to receive the threaded fasteners (32). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added one or more

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aligned opening to Konger's channel and replaced Konger's fastener with threaded fastener as taught by Smith to provide a convenience in mounting the fastener in the channel.

### ***Allowable Subject Matter***

Claims 3-10, 17-18, 20-23, 26-33, 39-40, 42-43 and 46-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regard to claims 3-9 and 26-32, the prior art fails to teach the outer and inner channels each comprising a top flange. In regard to claims 10 and 33, the prior art fails to teach the first and second set of channels each comprising at least two pairs of channels. In regard to claims 17-18 and 39-40, the prior art fails to teach at least one channel in each set of nested channels includes a top flange with an outer end portion that angles inwardly toward a midline of the channel. In regard to claims 20-23 and 42-43, the prior art fails to teach at least one closure channel extending at least partially around one of the first and second sets of nested channels. In regard to claims 46-50, the prior art fails to teach the nested channel comprising a top flange.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 4,893,961 to O'Sullivan et al.

US Patent # 4,794,745 to Platt et al.

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US Patent # 6,256,958 to Matthews


US Patent # 5,517,796 to Koski et al.

O'Sullivan et al., Platt et al., Matthews and Koski et al. teach I-beam for supporting a joist.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred J Wujciak III whose telephone number is 703 306 5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Les Braun can be reached on 703 308 2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 3519 for regular communications and 703 308 3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

  
Joey Wujciak  
August 16, 2002

  
ANITA KING  
PRIMARY EXAMINER